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1 COLBERT LANDFILL SUPERFUND SITE, COLBERT WASHINGTON

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3 RESPONSIVENESS SUMMARY FEBRUARY 22, 19894
5 SUMMARY OF COMMENTS RECEIVED DURING THE PUBLIC COMMENT
6 PERIOD AND WASHINGTON STATE DEPARTMENT OF ECOLOGY RESPONSES
7 TO THE COMMENTS REGARDING: THE COLBERT LANDFILL CONSENT
8 DECREE (C-89-033-RJM)9
10 Comments and questions from members of the public,
11 primarily Colbert area residents, regarding the above
12 mentioned Consent Decree, are summarized below. Similar
13 comments are grouped together. Each group of comments or
14 questions is followed by a response from the Washington
15 State Department of Ecology (Ecology). Attached to this
16 Responsiveness Summary is a typed transcript of the public
17 meeting/hearing held in Colbert. Also attached are written
18 comments received by Ecology which are responded to herein.19 The following Responsiveness Summary contains a
20 compilation of the comments and questions received and very
21 brief responses. The transcript itself contains detailed
22 responses to most of the oral comments heard. Responses to
23 comments, not heard at the public meeting nor received by
24 Ecology, may be found in the Governments' Memorandum In
25 Support Of Motion To Enter Decree (Governments' Memorandum),
26 and will be noted.

1 The Colbert Landfill Consent Decree was lodged in
2 Federal District Court on January 9, 1989. Concurrent
3 public comment periods were held by Ecology and the U.S.
4 Department of Justice(DOJ)/U.S. Environmental Protection
5 Agency(EPA). The joint public comment periods originally
6 ran for 30 days from January 13, 1989 until February 13,
7 1989. The Ecology public comment period was extended until
8 February 17, 1989 after public comments were received
9 requesting more time. EPA and DOJ did not extend their
10 comment period. Ecology held a public meeting and hearing
11 on February 8, 1989. EPA assisted in the public meeting.
12 The public meeting, originally scheduled for February 2,
13 1989 was cancelled due to bad weather. The meeting was held
14 to explain the contents of the Consent Decree and to hear
15 public comment and questions on the Decree and to respond to
16 as many concerns as possible.

17 Oral comments were heard from 11 people. No written
18 comments were received at the meeting. There were 55 people
19 in attendance at the public meeting which was held at the
20 Colbert Elementary School from about 7:00 to 10:00 pm.
21 Ecology received two written comments between February 13
22 and February 17, 1989.

23 Responses to comments (Governments' Memorandum) have
24 been prepared by the EPA, DOJ, and Ecology for written
25 comments received during the 30 day public comment period.
26

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1 EPA and DOJ received seven written comments during their
2 comment period.

3 COMMENTS AND QUESTIONS RECEIVED
4

5 1) Two commenters had questions regarding the cost of the
6 cleanup. The commenters asked how the cost for the cleanup
7 was divided amongst the various Potentially Liable Parties
8 (PLP's) and who generated the cleanup cost estimates. They
9 also asked what would happen if the total cleanup costs
10 exceeded the \$14 million estimate and whether Initiative 97
11 (the Model Toxics Control Act) would change how costs are
12 split amongst the parties?
13

14 ECOLOGY RESPONSE

15 The allocation of costs among the three consenting
16 PLP's (Spokane County, KeyTronics Corp., and Fairchild Air
17 Force Base) was the agreement of all the parties after
18 several months of intense negotiations. Both Ecology and
19 EPA will be sharing in the cleanup costs in the form of
20 "mixed funding". These monies are to help offset the
21 cleanup costs due to non-settling PLP's. Ecology will seek
22 to recover the mixed funding at a later date through other
23 legal avenues. Ecology will also be contributing to the
24 cleanup costs, in the form of grant funds to Spokane County.

25 As the agreement is written, if the total costs exceed
26 the \$14 million estimate, Spokane County will pay the

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1 additional cost. If the total cost is less than \$14
2 million, Spokane County will pay less. The costs to the
3 other PLP's will remain the same, as their liability is a
4 fixed dollar amount, unless a specific "reopener" is
5 triggered. These "reopeners" are discovery of new
6 information which reveals that the cleanup is either
7 ineffective or discovery of previously unknown contaminants.

8 The cost estimate of \$14 million was made by a
9 consultant to Spokane County, based on the requirements in
10 the Scope of Work. The cost estimate is consistent with
11 Ecology's Feasibility Study and was agreed to by all
12 parties.

13 If the Consent Decree was completed under Initiative
14 97, the cost shares amongst the PLP's would not change.
15 Again, the division of cost was decided after months of
16 bargaining amongst the PLP's and the governments.

17
18 2) The length of the comment period concerned two
19 commenters. They asked if the comment period could be
20 extended to allow additional time for review and comment on
21 the Consent Decree. They also requested an opportunity to
22 review and comment on the Responsiveness Summary.

23
24 ECOLOGY RESPONSE

25 The Ecology comment period was extended until February
26 17, 1989 to allow some additional time for public comment.

1 Only two letters were received during this extension of the
2 comment period. A public meeting was held in Colbert
3 Washington on February 8, 1989 to help explain the Consent
4 Decree to the general public and to answer their questions.
5 The comments from the public and the Government's responses
6 will be reviewed by the Federal Judge prior to entry of the
7 Consent Decree. Copies of this Responsiveness Summary will
8 be available to the public, and are being sent directly to
9 those who provided comments.

10
11 3) The provisions of an alternate water supply and the use
12 or construction of new groundwater wells concerned five
13 commenters. The commenters asked the following questions:
14 If a well was not in use prior to the date of entry of the
15 Consent Decree, and that well becomes contaminated, is that
16 well owner protected under the Decree? Shouldn't the
17 priority date for a valid water right under State of
18 Washington law be used instead of the filing date for the
19 water right? Can a domestic well still be used after being
20 hooked up to a public water supply? What are the DSHS water
21 supply standards? Why not connect everyone to a public
22 water supply instead of spending the money to clean up the
23 groundwater? How does the Consent Decree affect the major
24 water purveyor (Whitworth Water District) in the area?
25
26

1 ECOLOGY RESPONSE

2 The concern of one commenter about the language in the
3 Scope of Work, regarding wells in use prior to the entry of
4 the Decree, will be changed to clarify the language. The
5 intent of the Scope of Work was not to exclude persons who
6 drill wells in areas not known to be contaminated, where
7 contamination subsequently occurs. Also, wording in the
8 Scope of Work will be changed to refer to priority dates for
9 water rights, instead of the filing date.

10 The Feasibility Study determined that water from
11 existing wells will be suitable for non-consumptive uses.
12 Residents may continue to use their well for non-consumptive
13 uses, after being hooked up to an alternate water supply, as
14 long as continued use of the well does not have a
15 detrimental impact on the cleanup activities.

16 The DSHS standards for domestic water supplies are
17 defined in Chapter 248-54 WAC. The minimum standards for a
18 Class 4 water system, in general, are approximately 1500
19 gallons per day per household connection. Specific
20 requirements are contained in the DSHS Water System Sizing
21 Guidelines, referred to in Chapter 248-54 WAC.

22 The cost for groundwater cleanup and alternate water
23 supplies versus no groundwater cleanup and alternate water
24 supplies for many more homes were evaluated in the 1987
25 Feasibility Study. The cost for cleanup and alternate water
26 was less expensive and prevented further contamination of

1 waters of the State, which the other option did not provide
2 for.

3 The concerns from the major water purveyor in the area,
4 Whitworth Water District, have been adequately addressed in
5 the Governments' Memorandum.
6

7 4) One commenter expressed concern regarding property values
8 and the stigma of living near or in an area of contaminated
9 groundwater.
10

11 ECOLOGY RESPONSE

12 The Consent Decree does not address property values nor
13 the perception questions of living near the Colbert Landfill
14 Superfund site, nor was it ever intended to. This Consent
15 Decree provides for remedial action (cleanup) necessary to
16 protect public health and the environment. Compensation for
17 property values is outside the scope of the remedial action
18 under CERCLA and Chapter 70.105B RCW.
19

20 5) Five commenters expressed concerns regarding the use and
21 or discharge of the treated water. The commenters asked if
22 the discharge of treated water would cause detrimental
23 impacts to the river, such as contamination or flooding.
24 Others inquired whether the treated water could be
25 evaporated or infiltrated back into the ground rather than
26 being discharged to the river or used for irrigation.

ECOLOGY RESPONSE

The Consent Decree provides for measures to protect public health and the environment. Provision of water for irrigation is outside the scope of the remedial action under CERCLA and Chapter 70.105B RCW. However, the treated water is suitable for irrigation or other use, as long as its' use does not impair the cleanup activities. Individuals interested in using treated water for these purposes should contact Spokane County.

Flooding should not be a problem related to the discharge of the treated water. The volume of water projected to be discharged is a very small percentage of the total flow in the Little Spokane River. If flood conditions exist on the river in the future, the discharge of treated water can be temporarily discontinued to prevent any additional impact from the discharge.

The discharge of treated water to the river will be monitored, as well as the river itself. The treated water being discharged to the Little Spokane River will meet drinking water quality standards, which is also protective of aquatic life.

The volume of treated water to be discharged greatly exceeds the volumes that could be evaporated. The discharge of treated water to the ground could have a detrimental impact on the groundwater extraction systems, by

altering or influencing the flow of contaminated groundwater, making the cleanup more difficult.

6) Four commenters raised concerns regarding the discharge of contaminants into the atmosphere from the proposed groundwater treatment process (air stripping). Will the discharge of the contaminants cause environmental or public health problems? Has a risk assessment been done on the proposed air discharge? The Spokane County Air Pollution Control Authority asked if the air discharge would comply with Chapter 173-403 WAC and meet the standards for Best Available Control Technology and suggested that emission controls be installed from the start. Another commenter asked if air stripping was an out-dated treatment technology?

ECOLOGY RESPONSE

These comments are similar to those responded to in the Governments' Memorandum. Ecology adopts those responses and sets forth its' additional responses. The allowable discharge of contaminants to the air will be at safe levels which are protective of both human health and the environment. During the small scale pilot studies, the air discharges will be monitored and then modeled to determine if applicable air discharge standards can be maintained during the Phase II of the Scope of Work. These Phase I

pilot studies will be conducted on a much smaller scale than will be conducted in Phase II. If it is determined that the discharges will cause adverse public health and/or environmental impacts, the air stream will have to be treated to reduce the quantity of contaminants being discharged to the atmosphere. Data derived from these pilot studies is necessary to determine whether any adverse impact can be expected from operation of the full scale treatment system.

A risk assessment was done during the feasibility study to determine inhalation impacts from contaminated groundwater being used in the home, which showed no adverse health impacts. An additional risk assessment based on potential human health impacts, will be done once the Phase I small scale pilot studies are complete. During Phase 1, the air discharges will be sampled and evaluated according to the the Superfund Public Health Evaluation Manual.

Meteorological data will be collected at the site. All that information, based on real data, not assumptions, will be modeled to determine health impacts. All known, available, and reasonable methods of treatment will be used on the air discharge. The requirement for all known, available, and reasonable treatment has been equated with Best Available Control Technology. Weyerhaeuser v. Southwest Air Pollution Control Authority 91 Wn. 2d 77, 586 P. 2d 1163 (1978). If the air discharge is determined to not

cause adverse impacts, costly treatment would be unreasonable and would not be required. If adverse impacts are predicted, then treatment will be provided. The reasonableness of requiring the treatment of the air discharge has not been determined and requires the assessment of data gathered during Phase I pilot studies.

The use of air stripping as a treatment process for water has been used for many years and is still being used around the country. It is a standard method used by EPA at numerous sites, including sites in Pierce County, without treatment of the air discharge. As stated previously, the use of air stripping, without some additional treatment of the air discharge, will only be allowed if no detrimental impacts are found.

7) Two commenters had concern regarding the covenant not to sue provisions of the consent decree. They asked what does a covenant mean and whether citizens would be barred from taking legal actions against the PLP's.

ECOLOGY RESPONSE

The covenant not to sue provision of the Consent Decree is strictly between the State and the consenting parties (PLP's). Covenants not to sue are authorized by Chapter 70.105B.080 RCW and their effect is defined by the statute. The covenant is granted by the State once all requirements

in the Consent Decree have been satisfied. The covenant is subject to reopeners if new information or new, previously unknown conditions arise.

8) One commenter requested that there be a continuing education program during the cleanup phases for the Colbert area residents.

ECOLOGY RESPONSE

The Consent Decree requires that a community relations program be conducted during the entire cleanup process. The community relations program is intended keep the public informed of current and future site activities. The program will include, but not be limited to: fact sheets, progress updates, public meetings, and continued opportunities for public input to the cleanup process.

9) One commenter questioned whether any study was done at the Old Colbert Township Dump.

ECOLOGY RESPONSE

As part of the Colbert Landfill Remedial Investigation Study, a groundwater monitor well was installed and sampled in the area of the Old Township dump and no problem was found.

10) One commenter questioned whether the performance standards proposed in the consent decree have remained constant over the years.

ECOLOGY RESPONSE

The standards have not remained constant over the years. The EPA Record of Decision for the Colbert Landfill says that the performance (cleanup) standards for the site must be reviewed at least every five years, to make sure that the cleanup continues to be protective of human health and the environment. If they are found to not be protective, the performance standards may be revised in the consent decree.

END OF RESPONSE TO COMMENTS